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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/675,860	09/29/2000	MARTIN M. BARRERA	NOVE10001000	9366

22891 7590 06/25/2003

DELIO & PETERSON
121 WHITNEY AVENUE
NEW HAVEN, CT 06510

EXAMINER

KIM, CHRISTOPHER S

ART UNIT	PAPER NUMBER
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3752

DATE MAILED: 06/25/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/675,860

Applicant(s)

BARRERA ET AL.

Examiner

Christopher S. Kim

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-10, 12-17, 19-21 and 26-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-10, 12-17, 19-21 and 26-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- ☐ Interview Summary (PTO-413) Paper No(s). _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. Amendment filed May 8, 2003 is acknowledged.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Drawings

3. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on May 8, 2003 do not appear to make changes to existing drawings. They merely remove features proposed in the drawing correction filed on June 13, 2002.

Claim Rejections - 35 USC § 102

4. Claims 1, 3-5, 7-10, 13, 15-17, 19-21, 26-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Gwyn (4,397,422).

Gwyn discloses an apparatus comprising: an inlet 17; a throat region 19; a first aperture 20 (aperture 20 for the white colorant); a second aperture 20 (aperture 20 for the green colorant); a third aperture 20 (for the red colorant); an exit nozzle 15.

In claim 13, the exit nozzle is considered to be the portion of throat region 19 downstream of aperture 20.

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Claims 1, 13 and 28 recite "adapted to" which merely requires the ability to so perform.

Claims 1, 13 and 28 recite "configured to" which merely requires the ability to so perform.

Claims 1, 13 and 28 recite "for" which merely recites the manner in which a claimed apparatus is intended to be employed and does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations.

Claim 5 further defines the first and second chemical vapor deposition dopants comprising TEOS. In claim 1, the first and second chemical vapor deposition dopants are not positively recited. The dopants are merely recited as intended use of the first and second aperture of the throat region of the apparatus being claimed.

Claim Rejections - 35 USC § 103

5. Claims 2, 12, 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gwyn (4,397,422).

With respect to claims 2 and 14, Gwyn discloses the limitations of the claimed invention with the exception of the angle being forty to sixty degrees. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided an angle of forty to sixty degrees for optimization dependent of application criteria, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

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With respect to claim 12, Gwyn discloses the limitations of the claimed invention with the exception of the angle being twenty to forty degrees. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided an angle of twenty to forty degrees for optimization dependent of application criteria, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Response to Arguments

6. Applicant's arguments filed May 8, 2003 have been fully considered but they are not persuasive.

Applicant's remarks to the interpretation of "dopant" for claims 24 and 25 are moot since the claims have been canceled. Additionally, applicant's specification fails to define "dopant" or specify any exclusion by such term. Therefore, the recitation has been given the broadest reasonable interpretation.

Applicant argues that Gwyn does not disclose a chemical vapor deposition chamber. The claims define a chemical vapor deposition chamber having a cavity comprising an inlet nozzle, a throat region and an exit nozzle. This chamber is defined/identified as a separate element than the chamber in the preamble. Applicant merely renames the "inlet nozzle," "throat region" and "exit nozzle" as a cavity of a chemical vapor deposition chamber. Since Gwyn also discloses an "inlet nozzle,"

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"throat region" and "exit nozzle," Gwyn too discloses a "chemical vapor deposition chamber having a cavity."

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Kim whose telephone number is (703) 308-8336. The examiner can normally be reached on Monday - Thursday, 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Y. Mar can be reached on (703) 308-2087. The fax phone numbers

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for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



Christopher S. Kim
Examiner
Art Unit 3752

CK
June 24, 2003